

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOSEPH LEE MOORE,

Petitioner,

v.

Case No. 08-CV-603

WILLIAM POLLARD, WARDEN,

Respondent.

ORDER

On July 24, 2008, petitioner Joseph Lee Moore filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Moore is challenging his conviction of armed burglary and his twenty-year term of imprisonment. Moore is currently confined at Green Bay Correctional Institution in Green Bay, Wisconsin.

However, his present petition is the third Moore has filed in the context of his current state sentence, his first having been addressed by the court on July 16, 2001. (*See Moore v. State of Wisconsin*, 01-CV-132.) The Honorable William Griesbach also dismissed Moore's second 28 U.S.C. § 2254 petition as successive on March 22, 2004. (*See Moore v. Swenson*, 04-CV-187.)

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts authorizes a district court to conduct an initial screening of habeas corpus petitions and to dismiss a petition summarily where "it plainly appears from the face of the petition . . . that the petitioner is not entitled to relief." *See id.* Rule 9 of the Federal Rules Governing § 2254 Proceedings provides that "before

presenting a second or successive petition, the petitioner must obtain an order from the appropriate court of appeals authorizing the district court to consider the petition." Absent approval from the Seventh Circuit to consider the motion, the court is constrained to deny his motion for want of jurisdiction. See *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1990) (stating "[a] district court *must* dismiss a second or successive petition, without awaiting any response from the government, unless the court of appeals has given approval for its filing") (emphasis in original).

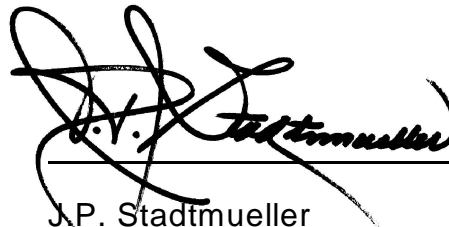
Accordingly,

IT IS ORDERED that Moore's petition be and the same is hereby **DISMISSED** for want of jurisdiction.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 14th day of August, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line. The signature is stylized with large, sweeping loops.

J.P. Stadtmueller
U.S. District Judge